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Paper 38  
Entered: 23 August 2007

UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES

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Patent Interference 105,407 RT  
Technology Center 2800

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**GILBARCO INC.,**

Patents 6,422,464 and 6,098,879,  
Junior Party,

v.

**IPXL HOLDINGS, LLC,**

Applications 09/922,935 and 10/623,656,  
Senior Party.

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Before: FRED E. McKELVEY, *Senior Administrative Patent Judge*, and  
RICHARD TORCZON and JAMES T. MOORE, *Administrative Patent  
Judges*.

McKELVEY, *Senior Administrative Patent Judge*.

**JUDGMENT**

Upon consideration of GILBARCO CONCESSION OF PRIORITY  
(Paper 28) and the MEMORANDUM OPINION and ORDER (Paper 37),  
entered concurrently herewith, it is

1                   ORDERED that judgment on priority as to Count 1 (the sole  
2 count in the interference; Paper 35, page 3) is awarded against Junior Party  
3 Gilbarco Inc. (inventor: Steven N. Terranova).

4                   FURTHER ORDERED that Junior Party Gilbarco Inc.  
5 (inventor: Steven N. Terranova) is not entitled to a patent containing claims  
6 1-9, 18-25, and 27 (corresponding to Count 1) of:

7                                   U.S. Patent 6,098,879  
8                                   issued 8 August 2000  
9

10                  FURTHER ORDERED that Junior Party Gilbarco Inc.  
11 (inventor: Steven N. Terranova) is not entitled to a patent containing claims  
12 1-33 (corresponding to Count 1) of:

13                                  U.S. Patent 6,422,464  
14                                  issued 23 July 2002  
15

16                  FURTHER ORDERED that if there is an additional settlement  
17 agreement, attention is directed to 35 U.S.C. § 135(c).

18                  FURTHER ORDERED that a copy of this JUDGMENT shall  
19 be placed in the files of (1) U.S. Patent 6,098,879, (2) U.S. Patent 6,422,464  
20 (3) application 09/922,935 and (4) application 10/623,656.

21                  FURTHER ORDERED that the Clerk is directed to distribute  
22 the files upon entry of this JUDGMENT.

1 cc: (via electronic mail):

2 Steven N. Terranova

3 John R. Witcher

4 WITHROW & TERRANOVA, P.L.L.C.

5 Cary, NC

6

7 James G. Gatto

8 Bradford C. Blaise

9 PILLSBURY WINTHROP SHAW PITTMAN LLP

10 McLean, VA

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**Desperтт, Sonja**

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**From:** Desperтт, Sonja on behalf of Interference Trial Section  
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**Subject:** Interference 105407 (McK) Paper No. 38 - Judgment  
**Attachments:** 105407.038.pdf

8/23/07